

Maine Department of Environmental Protection
February 15, 2007

BASIS STATEMENT

Chapter 378: Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay & Silt and the Performance Standards for the Storage of Petroleum Products

The need to change the existing rules resulted primarily from changes to the Stormwater Management Law and its associated rule changes in Chapter 500 and 502. To ensure consistency between programs, changes are warranted to bring the variance criteria up to current standards for stormwater management. Included in the rule are specific standards and submission requirements for variances for externally drained gravel pits and quarries. The rule also describes the performance and design standards for the storage of petroleum products.

Proposed amendments to Chapter 378 were posted for public comment on December 27, 2006. A hearing was not held. The public comment period ended 5:00 p.m. January 26, 2007.

LIST OF COMMENTERS

Edward Johnston
Gene Weldon

Maine Aggregate Association
Lane Construction Corporation

Specifically, Maine Aggregate Association supported the rules. Gene Weldon, Lane Construction Corporation, had questions concerning State Fire Marshal's Office requirements for aboveground storage tanks (AST) associated with asphalt burners and the redundancy of having spills kits required for each refueling vehicles when one is already required to be located at the site. A few minor changes were made in response to comments.

Section 5 Performance Standards for the Storage of Petroleum Products

Section A Performance Standards for secondary containment

Comment: Gene Weldon, Lane Construction, commented that Section A(1) of the rule does not mention the use of steel dikes as an acceptable secondary containment structure. Some facilities use steel dikes for storing petroleum products.

Response: The Department approves of use of steel dikes to store petroleum products. The department will add specific language that states that the use of steel dikes as a secondary containment structure is acceptable.

Section G Safety Measures

Comment: Gene Weldon, Lane Construction, commented that Section G(3) is redundant because Section G(4) details the requirements for the onsite spill kit.

Response: The Department agrees that these two sections are redundant and will delete Section G(3).

Comment: Section J: The Maine State Fire Marshal's requirements for above ground petroleum storage do not mention the exemption of tanks associated or connected to burners from the registration program; tank size is not mentioned either.

Response: If an AST is connected to a burner, it is not regulated by the State Fire Marshal's Office. Installation of the tank and burner must comply with the requirements of the Oil Solid Fuel Board.